



Public trustees and public guardians in the Northern Territory

Learn more about guardianships in the Northern Territory and the role of the Public Guardian and Trustee.

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What are public trustees and public guardians?

Public trustees and public guardians are independent statutory authorities that provide services that help people – particularly vulnerable people – to manage their personal affairs. Every state and territory in Australia has a public guardian and a public trustee, although they may have different titles. They are independent statutory officials appointed under state government legislation, and the offices they run are state government agencies.

- **What is a public trustee?** It's an organisation that protects people's financial interests by providing services like assisting them with making wills and powers of attorney. Generally, a public trustee can be appointed to look after financial decision-making for someone who has lost their capacity to make those decisions themselves.
- **What is a public guardian?** This term often refers to both the office and the official, who support people with impaired decision-making capacity and help to protect their interests. If the official is appointed as guardian for someone who has lost capacity, their team members manage the person's welfare, lifestyle, health and/or medical decisions for them. They may also be able to investigate allegations of abuse or neglect of older people who have lost decision-making capacity.

The Northern Territory's Office of the Public Guardian and Trustee is made up of two sections. One is the Office of the Public Guardian (or OPG), which helps with people's personal and medical affairs. The other section is the Public Trustee, which looks after financial matters. The same person fills both roles of Public Guardian and Public Trustee.

In some of the other states and territories, the two agencies are completely separate and in others they are combined into one agency. They may also have different names.

Different kinds of guardianship appointments

There are two types of guardianship appointments that can assist older people:

- **One you make yourself.** You can appoint your own choice of future decision-maker(s) under a formal document like an Advance Personal Plan (or APP). This can only be done while you still have decision-making capacity.
- **One made for you.** If you lose capacity and have not formally appointed your own future decision-makers, someone can be appointed for you by an authorised and specialist organisation, such as an administrative tribunal.

This article talks about guardians who are appointed for you if you need one but haven't appointed one yourself.

To find out more about appointing your own substitute decision-makers while you still have capacity, see our Enduring Powers of Attorney section.



What is a guardian?

A guardian is a substitute decision-maker: someone authorised to make decisions for another person who is unable to decide for themselves. Guardians are authorised by law to make some or all decisions on the person's behalf, and they should always act in the person's best interests.

Often, someone who knows the person well – an ‘interested person’ – becomes their guardian. This could be, for example, a family member, close friend, relative by customary law or tradition, or professional carer. However, sometimes a public agency, like the Public Guardian and Trustee, is appointed.

More about guardians

- Guardianships in the Northern Territory can cover ‘personal matters’, ‘financial matters’ or both.
- Some states and territories use a different title, such as ‘administrator’ or ‘financial manager’, for a guardian who makes financial decisions. The Northern Territory only uses the term ‘guardian’.

You can read more about guardianships in our Introduction to guardianships in Australia section.



How are guardians appointed?

If you start to have difficulty making decisions and don't have an Advance Personal Plan, there may be someone – like a close relative or friend – who can step in and help you manage things. If these people make decisions for you without any kind of formal appointment, it's called 'informal decision-making'. As long as this arrangement is working well, there may be no need for a formal guardianship.

If there is no informal decision-maker, or the informal arrangement isn't working well, someone involved in your life can ask to have a guardian formally appointed for you. They do this by applying to the Northern Territory Civil and Administrative Tribunal (sometimes called 'NTCAT').

Your decision-makers should try to help you make any decisions that you can. This is often called 'supported decision-making'.

What does 'supported decision-making' mean?

Supported decision-making means your helper empowers you to make your own decisions whenever you can by providing you with whatever you need to do so. For example, your decision-making supporter could:

- explain information, so you are able to make the decision
- get you a translator, so you can understand information thoroughly
- go with you to the doctor to write down what they say, so you can remember it later and decide what to do.

You can find out more about this in our article, [Supported decision-making](#).

The role of the Northern Territory Civil and Administrative Tribunal (NTCAT)

An administrative tribunal is like a court that decides minor disputes and administrative matters. It operates under territory legislation, and the decisions it makes are called 'orders'. The Northern Territory Civil and Administrative Tribunal (sometimes called NTCAT) operates under the *Northern Territory Civil and Administrative Tribunal Act 2014 (NT)* and other legislation. One of the administrative matters it can decide is guardianships.

NTCAT's role in guardianships is to consider applications to have a guardian appointed for you and decide how and when the guardian can act. Someone who is concerned about you can apply to the tribunal to either be formally appointed as your guardian themselves or have someone else appointed. NTCAT does not charge fees for guardianship applications.

The tribunal will hold a hearing to determine whether there is a genuine need for a guardian to be appointed, consider who could be appointed, and decide how the guardianship would work best. They will keep your best interests in mind when deciding on the application.

Usually, they will first try to find an 'interested person' to be guardian, someone who knows you well, such as a family member, customary or traditional relative, friend or carer. A guardian must have legal capacity and be aged 18 or over to be appointed.

- Access information about Applying for guardianship for more details about the application process and the evidence you'll need to provide with the application.

Sometimes, it's not possible for the Civil and Administrative Tribunal to appoint an individual person as your guardian. They may be unable to find an available, suitable and willing person, or there may be a dispute between your relatives, friends or carers over who your guardian should be.

In cases like these, the tribunal may appoint the Office of the Public Guardian and Trustee to be your guardian. The appointment is called a 'guardianship order', and you may be referred to in the order as the 'represented person'.

NTCAT can appoint two or more guardians, and the guardianship order will state what matters they can decide. The order will also say whether they can make decisions 'jointly' (which means, all guardians must agree on the decision), 'severally' (one can decide on their own), or either way.

The tribunal can also receive and consider requests for reviews of guardianship orders in the Northern Territory. They provide some information to private guardians through the Information for guardians webpage.

The role of the Office of the Public Guardian and Trustee (PGT)

The Public Guardian and Trustee can be appointed to look after the financial and/or personal affairs of people living in the Northern Territory who are unable to manage them for themselves. They can also investigate concerns about people who are living under a guardianship order. If you lose decision-making capacity and don't have an Advance Personal Plan, they may be appointed by NTCAT as your guardian.

The role of the Public Guardian and Trustee, when appointed as your guardian, is to act in a way that keeps your best interests in mind, is least restrictive of your freedom, and respects your preferences and wishes, as far as possible. They will aim to promote your happiness, wellbeing, community participation and potential, while ensuring you receive appropriate care and are protected from abuse and neglect.

- You can read more about Northern Territory guardianships on the PGT's About guardianship webpage.
- The principles of adult guardianship in the Northern Territory are explained in this fact sheet (PDF, 872 KB).

As much as possible, the Public Guardian and Trustee teams will work with you in making your decisions. If it's appropriate, they will also talk to your family, friends and carers to get their views on how your decisions should be made.



What matters can a guardian decide?

Guardianships in the Northern Territory are covered by the *Guardianship of Adults Act 2016 (NT)*, which sets out the matters that guardians may manage for you. The Office of the Public Guardian is governed by this Act. The Public Trustee is governed by the *Public Trustee Act 1979 (NT)*.

If the Public Guardian and Trustee is appointed to help you, they will need to get some information about you and what's happening in your life, what decisions need to be made, and what your options are. They will talk to you and to your carers to gather the information and find out what everyone thinks would be best for you. The information they collect will be kept private.

If you (or someone else) disagree with the way the Public Guardian and Trustee acts for you, you can phone them to discuss the issue. Information about the PTG's complaints process is available on their website.

Financial decisions

Examples of financial matters the Public Guardian and Trustee, as your guardian, can decide include:

- banking
- real estate and property decisions, including insurance
- asset and investment management
- paying your bills and accounts
- managing any income you receive.

Personal decisions

Examples of personal matters the Public Guardian and Trustee, as your guardian, can decide include:

- where you live
- day-to-day matters like your meals and activities
- who can have contact with you
- what health and care services you receive.

What are a guardian's responsibilities?

Northern Territory law requires your guardian to act in ways that are in your best interests, consider and respect your wishes and preferences, and choose the least restrictive option when making your decisions. The adult guardianship principles apply to both private guardians and the PTG's staff as your guardian.

The PTG will do everything possible to act for you according to the law and the principles. To be able to do this, they will need to gather information about you, your preferences and options, and the decisions that need to be made, and the information they gather will be kept private.

They will keep records of the transactions and decisions they make for you, and a private person acting as your guardian should do the same. Most importantly, guardians can only decide matters they are authorised to decide.

Information for guardians

Guardians can find out more about their role and responsibilities on our [Being a guardian](#) webpage.



Ending or changing a guardianship

A guardianship appointment made by NTCAT can last anywhere from 90 days to several years, depending on the situation. The guardianship order will state when it ends and when it will be reassessed.

You, or people involved with you, may also apply to have a guardianship order reassessed, varied or revoked. This may happen if your circumstances change or if there is concern that your appointed guardian isn't acting in your best interests. The form for applying for a reassessment, variation or revocation is available on the tribunal's website.

Your guardianship appointment ends naturally when you die.

More information and resources

Northern Territory Civil and Administrative Tribunal



An independent body that resolves disputes and makes and reviews administrative decisions, including guardianship appointments.

Tel: (08) 8944 8720 or 1800 604 622 (8.45 am to 4 pm, Monday to Friday)

Email: agd.ntcat@nt.gov.au

Website: ntcat.nt.gov.au

Office of the Public Guardian and Trustee



The Public Guardian section provides adult guardianship information, services and advocacy. The Public Trustee section offer services relating to guardianship, estate administration, trustee management and wills.

To contact the Public Guardian section:

Tel: 1800 810 979 (8 am to 4 pm, Monday to Friday)

Email: pgt@nt.gov.au

Website: pgt.nt.gov.au

To contact the Public Trustee section:

Tel: (08) 8999 7271 (Darwin), (03) 8951 5338 (Alice Springs)

Email: agd.publictrustee@nt.gov.au

Website: <https://nt.gov.au/law/processes/public-trustee-of-the-nt>

Other useful resources

Understanding the NT *Guardianship of Adults Act* (PDF, 759 KB)

Legislation is not an easy thing to read or understand. This PGT fact sheet explains in plain English how the Act applies in a guardianship situation.

Disclaimer: The information provided on this website is not a substitute for individual legal advice.